

05-31-17P03:22 RCVD

CONTRACT NO: 07-4T9504

BID AMOUNT:
 \$ 1,777,700 -

BID OPENING DATE: 5-24-17

BIDDER'S NAME: BEADON CONSTRUCTION COMPANY, INC.

DBE GOAL FROM CONTRACT %: 16

DBE PRIME CONTRACTOR CERTIFICATION¹: TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE) 2 TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE) \$ 898,729 -

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED ²	WORK CATEGORY CODES ³	NAME OF DBEs (Must be certified on the date bids are opened. Include Caltrans' certification no., DBE address, and phone number. Show 2nd and lower tier subcontractors)	AMOUNT (\$)
3	TRAFFIC CONTROL SYSTEMS		SO CAL TRAFFIC INC. DBE #41010 SAN MARCOS, CA 952-720-0179	\$108,750 -
2	CONSTRUCTION AREA SIGNS		MAXERIE TRAFFIC CONTROL DBE #78078 TEMECULA, CA 951-695-5704	\$700 -
1.5	LEAD COMPLIANCE PLAN + WPCP		APPRIAN UDBE 30334 EL SOBOBANTE, CA	\$2600 -
6	TEMP FIBER ROLLS - SUPPLY		TRIUMPH GEOSYSTEMS DBE #9076, BELLINGHAM, CA 800-775-7545	\$9574.44
Show all DBE firms being claimed for credit, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the contract to perform the specific work shown for the specific amount agreed to.				\$127,064.44
The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cont Code § 4100 et seq.).				7.2 %
¹ Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces. ² If 100% of an item is not to be performed or furnished by the DBE, describe the exact portion of the item to be performed or furnished. ³ Use Work Category Codes from the California Unified Certification Program database.				

The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (49 CFR 26.53).

Signature of Bidder

5-30-17
 Date

951-674-7352
 (Area Code) Tel. No.

Person to Contact

(Please Type or Print)

ADA Notice

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Contract No. 07-4T9504

05/30/2017 TUE 10:25 FAX

0002/003

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
DBE CONFIRMATION
 DEB-06-0102.13 (NEW 052015)

Contract no.: 07-4T9504
 Name of DBE business: Maneri Traffic Control
 Name of DBE representative: Linda Diaz
 DBE certification number: 38078
 Name of bidder: BEADLER CONSTRUCTION COMPANY INC.
 Name of prime contractor if different from the bidder:
 Name of representative of bidder or prime contractor: DAVID BEADLER
 Date: 5-30-17

Bid Item number	Item of work and description of services to be subcontracted or materials to be provided ¹	Amount (\$)
#2	Construction Area Signs	\$7000.00

¹ If 100% of an item is not to be performed or furnished by the DBE, describe the exact portion of the item to be performed or furnished.

Total

As an authorized representative of a certified disadvantaged business enterprise, I confirm that my business was contacted by the bidder or prime contractor shown above regarding the contract shown above. If the bidder is awarded the contract, my business will enter into a contractual agreement with the bidder or prime contractor to perform the type and dollar amount of work shown on the DBE Commitment form.

I certify under penalty of perjury that the foregoing is true and correct.

Signature of DBE's authorized representative:

Linda Diaz
 Printed name of DBE's authorized representative:

Office Admin
 Title of DBE's authorized representative:

5/30/17
 Date:

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Contract No. 07-4T9504

**MANERI TRAFFIC CONTROL, INC.****SIGN AND TRAFFIC QUOTE**

TO: PLAN HOLDER	ATTN: ESTIMATOR
PROJECT	07-4T9504
BID DATE	5/24/17

**CURRENT SCHEDULING FOR CONSTRUCTION AREA SIGNS AND TRAFFIC CONTROL IS 3 WEEKS ADVANCE NOTICE.
CONTRACTOR MUST SEND REQUEST VIA EMAIL/FAX UNTIL FURTHER NOTICE. **

CONSTRUCTION AREA SIGNS: (ITEM #2)	
ITEM #2 WITH USE OF MTC, INC. FOR 100% OF ITEM #3	\$5,400.00
ITEM #2 WITHOUT USE OF MTC, INC. FOR 100% OF ITEM #3	\$7,000.00
(ITEM #2 PRICE INCLUDES TWO TYPE II FUNDING SIGNS)	

TRAFFIC CONTROL: (ITEM #3)	
LUMP SUM, 2 LABORERS, 1 TRUCK AND EQUIPMENT (1-8 HOURS)	\$1,525.00

(PLEASE SEE ATTACHED QUOTE FOR ALL OTHER PRICES)

IF YOU HAVE ANY QUESTIONS REGARDING ANY PORTION OF THIS QUOTE, PLEASE DO NOT HESITATE TO CALL OUR ESTIMATOR, JOHNNY MANERI, ON HIS CELL AT (760) 535-7881. THANK YOU FOR YOUR TIME AND CONSIDERATION.

SINCERELY,

Johnny Maneri

MANERI TRAFFIC CONTROL, INC. QUOTE STIPULATIONS: CONSTRUCTION AREA SIGNS ESTIMATE INCLUDES DELIVERY, INSTALLATION, AND REMOVAL UNLESS OTHERWISE NOTED IN THIS QUOTE. THE PRICE DOES NOT INCLUDE MAINTENANCE, CHANGES OF DATES, RELOCATION, OR REPLACEMENTS. ALL SIGNS AND MATERIALS USED BECOME THE PROPERTY OF MANERI TRAFFIC CONTROL, INC. UPON COMPLETION OF THE JOB. FUNDING SIGNS ARE \$850.00, UNLESS NOTED IN THIS QUOTE. THIS QUOTE EXCLUDES THE COVERING OF THE G84 SIGN AND EXCLUDES ALL INSTALLATION AND REMOVAL OF OVERHEAD SIGNS. ANY ADDITIONAL LICENSE FEES WILL BE THE CONTRACTORS RESPONSIBILITY. IF CONTRACTOR REQUIRES A BOND, A SURETY RATE OF 3% OF THE BOND AMOUNT, PLUS A SBA FEE OF .75% OF THE TOTAL BOND AMOUNT WILL BE ADDED TO THE TOTAL CONTRACT AMOUNT. ANY ITEM SOLD IS SUBJECT TO ADDITIONAL SALES TAX. NO RETENTIONS ARE TO BE HELD ON TRAFFIC CONTROL, ANY SERVICE OR ANY SALE PROVIDED. **MANERI TRAFFIC CONTROL, INC. DOES NOT DO TRAFFIC CONTROL PLANS.** IF PRIME CONTRACTOR CHOOSES TO ACCEPT THIS QUOTE: THIS FULL QUOTE MUST BE ATTACHED TO SUBCONTRACT OR PURCHASE ORDER. ALL SERVICES ARE PROVIDED UPON AVAILABILITY.

47423 RAINBOW CANYON RD.
TEMECULA, CA 92592
O: 951-695-5104
F: 951-695-5105

CONTRACTOR LICENSE #1017741
DIR #1000043135
DBE #38078
SB#2003406
UNION SIGNATORY



MANERI TRAFFIC CONTROL, INC.

BID DATE	5/24/17
PROJECT	07-4T9504
LUMP SUM, 2 LABORERS, 1 TRUCK AND EQUIPMENT (1-8 HOURS)	\$1,525.00
FLAGGING OPERATION, 2 LABORERS (1-8 HOURS)	\$1,525.00
FLAGGING OPERATION, 2 LABORERS (1-8 HOURS) WITH RUMBLE STRIPS	\$1,825.00
PILOT CAR OPERATION, 3 LABORERS (1-8 HOURS)	\$2,125.00
PILOT CAR OPERATION, 3 LABORERS (1-8 HOURS) WITH RUMBLE STRIPS	\$2,425.00
ONE LABORER W/ TRUCK AND EQUIPMENT (1-8 HOURS)	\$990.00
ADDITIONAL LABORER (1-8 HOURS)	\$650.00
ATTENUATOR TRUCK WITH DRIVER (1-8 HOURS)	\$890.00
<u>OVERTIME: (AFTER 8 HOUR SHIFT)</u>	
• HOURLY RATE PER LABORER	\$115.00
<u>WEEKEND RATE: (FIRST 8 HOURS ON A SATURDAY OR SUNDAY)</u>	
• RATE PER LABORER	\$295.00
<u>CANCELLATION: (IN TOWN)</u>	
• 4 HOURS PRIOR TO SHOW UP	NO CHARGE
• DIRECTLY AFTER SHOW UP (2 HOURS PER LABORER)	\$90.00/HR
• DIRECTLY AFTER SET UP (4 HOURS PER LABORER)	\$90.00/HR
<u>OUT OF TOWN CANCELLATIONS: (120 MILES FROM COMPANY ADDRESS)</u>	
• LESS THAN 24 HOURS PRIOR TO SHOW UP (4 HOURS PER LABORER)	\$90.00/HR
MTC REQUIRES MINIMUM OF 1 HOUR FOR SET UP AND 1 HOUR FOR PICK UP	
RAMP NOTIFICATION SIGN (EACH)	\$190.00
<u>ATTENUATOR TRUCK W/ OUT DRIVER: (UPON AVAILABILITY ** NO MILEAGE CHARGE**)</u>	
• DAILY	\$325.00
• WEEKLY	\$990.00
• MONTHLY	\$2,850.00
• DELIVERY	\$200.00
• PICK-UP	\$200.00
<u>PCMS BOARDS (EACH): (UPON AVAILABILITY)</u>	
• DAILY	\$185.00
• WEEKLY	\$400.00
• MONTHLY	\$890.00
• DELIVERY	\$100.00
• PICK-UP	\$100.00
<u>ARROW BOARDS (EACH): (UPON AVAILABILITY)</u>	
• DAILY	\$50.00
• WEEKLY	\$185.00
• MONTHLY	\$550.00
• DELIVERY	\$100.00
• PICK-UP	\$100.00
<u>LIGHT TOWERS (EACH): (UPON AVAILABILITY**PORTABLE FOR FLAGGING ONLY**)</u>	
• DAILY	\$75.00
• WEEKLY	\$200.00
• MONTHLY	\$500.00
• DELIVERY	\$100.00
NOTE: ALL EQUIPMENT AND VEHICLE AGREEMENTS: CONTRACTOR ASSUMES FULL RESPONSIBILITY (THEFT AND VANDALISM INCLUDED) AND FOR BOARD PLACEMENT. SIGNED AGREEMENT AND INSURANCE CERTIFICATES ARE REQUIRED BEFORE DELIVERY.	

NO RETENTIONS ARE TO BE HELD ON TRAFFIC CONTROL.

47423 RAINBOW CANYON RD.
TEMECULA, CA 92592
O: 951-695-5104
F: 951-695-5105

CONTRACTOR LICENSE #1017741
DIR #1000043135
DBE #38078
SB#2003406
UNION SIGNATORY

**MANERI TRAFFIC CONTROL, INC.**

Firm ID	38078
Firm/DBA Name	MANERI TRAFFIC CONTROL
Address Line1	47423 RAINBOW CANYON
Address Line2	
City	TEMECULA
State	CA
Zip Code1	92028
Zip Code2	
Mailing Address Line1	
Mailing Address Line2	
Mailing City	
Mailing State	
Mailing Zip Code1	
Mailing Zip Code2	
Certification Type	DBE
E-Mail	mariamaneri@yahoo.com
Contact Name	MARIA MANERI
Area Code	(951)
Phone Number	695-5104
Fax Area Code	(951)
Fax Phone Number	695-5105
Agency Name	DEPARTMENT OF TRANSPORTATION
Counties	01; 13; 19; 30; 33; 36; 37; 40; 42; 56;
Districts	04; 05; 07; 08; 11; 12;
DBE NAICS	561990;

ACDBE NAICS

Work Codes	C1200 CONSTRUCTION AREA SIGNS; C1201 TRAFFIC CONTROL SYSTEM; C1210 Traffic Count;
Licenses	C31 Construction Zone Traffic Control Contractor; D42 Sign Installation;
Trucks	
Gender	F
Ethnicity	HISPANIC
Firm Type	DBE

47423 RAINBOW CANYON RD.
TEMECULA, CA 92592
O: 951-695-5104
F: 951-695-5105

CONTRACTOR LICENSE #1017741
DIR #1000043135
DBE #38078
SB#2003406
UNION SIGNATORY

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
DBE CONFIRMATION
 DBE-05-0102.13 (NEW 05/2015)

Contract No.: 07-4T9504
 Name of DBE business: So. Cal Traffic, Inc.
 Name of DBE representative: Cecilia K. Ostlund
 DBE certification number: 41010
 Name of bidder: BEADOR CONSTRUCTION COMPANY INC.
 Name of prime contractor if different from the bidder:
 Name of representative of bidder or prime contractor: DAVID BEADOR
 Date: 5-30-17

Item number	Item of work and description of services to be subcontracted or materials to be provided ¹	Amount (\$)
Item#3	Traffic Control Systems	\$108,750

¹If 100% of an item is not to be performed or furnished by the DBE, describe the exact portion of the item to be performed or furnished.

Total \$108,750

As an authorized representative of a certified disadvantaged business enterprise, I confirm that my business was contacted by the bidder or prime contractor shown above regarding the contract shown above. If the bidder is awarded the contract, my business will enter into a contractual agreement with the bidder or prime contractor to perform the type and dollar amount of work shown on the DBE Commitment form.

I certify under penalty of perjury that the foregoing is true and correct.

Signature of DBE's authorized representative:

Cecilia K. Ostlund

Printed name of DBE's authorized representative:

President

Title of DBE's authorized representative:

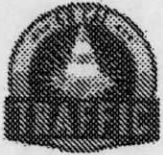
5/30/17

Date:

ADA Notice

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Contract No. 07-4T9504

**So. Cal Traffic, Inc.**

1358 La Mirada Drive
 San Marcos, CA 92078
 858-720-0179
 Fax 858-793-4495
 CA License#972211

QUOTATION

Quote Date	Quote ID
5/24/2017	17-20837

Valid Through: 6/30/2018

Estimating Department**CALTRANS DBE#41010****Job Location:**

Caltrans#07-4T9504 (Bel Air Crest Rd.)
 Los Angeles
 Quote Created By: Clay Britsch

Item Description	Price	UOM	Qty/Day	Days	Total Qty.	Total
Item#3: Traffic Control Systems: Up to 8 Hours (2 Persons) **Complete Closure	\$1,375.00	Per Day/PM	1	1	1	\$1,375.00
Item#3: Attenuator Truck w/Operator: Up to 8 Hours (1 Person)	\$800.00	Per Day/PM	1	1	1	\$800.00

Note: The * indicates taxable items.

Item#3: Traffic Control Systems

- Traffic Control Systems: Up to 8 Hours (2 Persons) \$1,375.00 per day/night

**Includes all closure listed in Specs at time of bid

**Includes all equipment for closure type

PLEASE NOTE: No bid item for PCMS Board. Chart No. J2 states to place a PCMS on the median at Sepuveda Blvd; north of the SB 405 off-ramp to Skirball Cir Dr/Mulholland Dr approximately 600 ft

- Attenuator Truck with Operator: Up to 8 Hours (1 Person) \$800.00 per day/night

- Posting Notification Signs: Ramp Closures \$175.00 per posting

*Notifications posted 7 days prior to closure date

**No change in rate at time of State Prevailing Rate adjustment on 6/30/17. Our rates are good through completion of this job.

Please Note: 1 Hour Minimum for Set-Up & 1 Hour Minimum for Removal of Closure(s).

Included: Our daily traffic control rate includes 2 Traffic Control Technicians, all equipment, 1 Arrowboard and 1 Traffic Control Truck

Excluded: California Highway Patrol; if needed. Contractor Responsible.
 Changeable Portable Message Board(s)

Add'l Terms: Time starts on site. No portal to portal charges.

So. Cal Traffic, Inc., reserves the right to change our quotation should additional information be provided subsequent to the quotation date. This job was bid on plans, specs and addendums.

An executed Subcontract or Purchase Order must be on file with this office prior to start of work.

$\$2175^{\text{hr}} / \text{DM} \times$
 $50 \text{ DMs} =$
 $\$108,750^{\text{hr}}$

Quote For: Estimating Department - Quote ID: 17-20037 (cont.)

Add'l Terms: Should this quote be accepted by the prime contractor; prime contractor to attach this quote to their subcontract or purchase order relating to this project.

No Retention on Contract

Minimum Rates: Traffic Control Systems is a Four (4) Hour Minimum Charge at 60% of rates. Full rate charged after Four (4) Hours. 60% of closure rate will be charged with less than Eight (8) Hours notice of cancelation. All cancelations must called into our office at (858)720-0179 and a follow-up email to follow from Prime requesting a cancelation; no exceptions will be made to our policy. Please do not contact So. Cal Traffic Foreman of any cancelations.

Rate listed is for Day/Night Work - Add: Saturday \$300.00 per day/night, per crew. Add: Sunday \$400.00 per day/night, per crew to rate listed above. Per Crew is 2 Persons. 1/2 Rate Applies to 1 Person.

Overtime Rate: After 8 Hours, \$115.00 per hour, per person

Double Time Rate: After 12 Hours \$130.00 per hour, per person

Terms: Net 30 Days



Clay Britsch
So. Cal Traffic, Inc.

5/24/2017

Date

Accepted By:

Signature

Date

Print Name

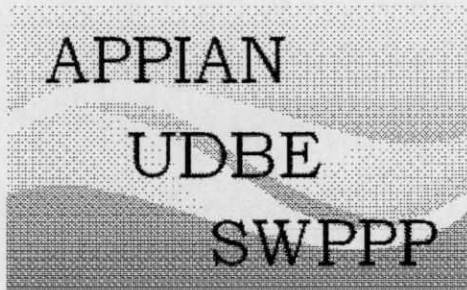
Title

Company

Visit Our Website at www.socaltraffic.net

We are signatory to laborers

State of California - DIR#1000012766



APPIAN UDBE SWPPP

Storm Water Pollution Prevention Plans
Water Pollution Control Programs
Lead Compliance Plans

Certified DBE, WBE, MBE & SBE:

BART - No. 38334

DIR # 1000005242

Business License Number 024765

5780 Olinda Road
El Sobrante, CA 94803

Phone: (510) 854-9402

Fax: (510) 256-0103

Email: tomkoprek@appianswppp.com

Friday, May 19, 2017

ATTN: Estimator

RE: Contract : **Caltrans – 07-4T9504**

Replace existing wildlife fences and gates.

Bid Date: **May 24, 2017**

Please find below the APPIAN SWPPP quote for the referenced project. Price includes three draft copies of the plan, additional copies of the approved plan if required by the Special Provisions, amendments and corrections. Plan preparation in compliance with State, Regional and Local Storm Water Discharge Regulations and as required by the Special Provisions.

Item #	Item Code	<u>Items bid individually</u>	Bid Price
1	070030	Lead Compliance Plan*	\$1,900.00
5	130200	Prepare Water Pollution Control Program (WPCP)	\$700.00

* Plan preparation only. Awareness Training, Monitoring or Sampling & Analysis not included.

Good Luck,

A handwritten signature in black ink, appearing to read 'Thomas Koprek'.

Thomas Koprek
Estimator
(510) 854-9402

A handwritten signature in black ink, with the number '2600' written below it.

Triumph Geo-Synthetics, Inc.

Sales Contact:

Scott Bortness
M: (442) 237-7035
E:
sbortness@triumphgeo.com

1325 N. Blue Gum St.
Anaheim, CA 92806
888-775-7545
DBE/WBE #9076, UDBE,
SBE #16084, CPUC #12010014

Quote #:

Q-01318-2

To: David Beador Beador Construction Co., Inc. 26320 Lester Circle Corona, CA 92883 P: 951-674-7352 E: dabeador@beador.com F: 951-674-7495	Bid Date: 5/24/2017 Delivery Date: Project Name: CT 07-4T9504 Project #: Project Location: 0.6 Miles South Of Bel Air Crest Rd North Undercrossing To Sepulveda Blvd Undercrossing Los Angeles CA
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Material Total	Sales Tax @ 8.7500%	Freight Cost	Total Cost
\$32,355.17	\$2,831.08		\$35,186.25

#	Product Name	QTY	UOM	Unit Price	Total
	Fiber Rolls/UV Net/ Caltrans Spec 8"x25'	860	Rolls	14.7004	\$12,642.34
	Fiber Roll Biodegradable 8" x 25'	860	Rolls	21.0005	\$18,060.43
	1"x2"x24" Wood Stakes 50/bundle	108	Bundle	15.3000	\$1,652.40

Freight to jobsite included for Full Quantity.

UV Net Fiber Rolls must be submitted and approved prior to purchase.

Determination of quantities needed for completion of project is sole responsibility of the contractor.

Fuel charges may apply to freight cost.

Terms and Conditions are attached to this document. Alternatively, the Triumph Terms and Conditions can be accessed at www.triumphgeo.com.

This quote will expire 30 days from the date of issue.

TAX
\$14,294.74
1215.05
\$15,057.39
x 0.60
\$9514.44

Signature: _____ Date: _____

Name: _____

TRIUMPH TERMS AND CONDITIONS (Revision March 2015)

All reference to SELLER is Triumph Geo-Synthetics, Inc. and affiliates of Triumph Geo-Synthetics, Inc. All reference to BUYER shall include all subsidiaries and affiliates placing the order.

BUYER shall issue to SELLER a signed sales order or a purchase order for the materials the BUYER is purchasing from Triumph. All quantities for the full execution of any project are the sole responsibility of the BUYER.

All sales to BUYER are subject to these Terms and Conditions, which shall prevail over any inconsistent terms of BUYER'S purchase order or other documents. Additional or different terms and conditions in any way altering or modifying these Terms are expressly objected to and shall not be binding upon SELLER. BUYER'S acceptance of any goods shipped by Triumph will constitute acceptance of Triumph Terms and Conditions. No modification or alteration of these Terms shall result by SELLER'S shipment of goods following receipt of BUYER'S purchase order, or other documents containing additional, conflicting or inconsistent terms. There are no terms, conditions, understandings, or agreements other than those stated herein, and all prior proposals and negotiations are merged herein. These Terms are binding on the Parties, their successors, and permitted assigns.

The delivery date is only an estimate of when the product will be shipped and/or delivered. Every reasonable effort will be made to meet shipment or delivery date stated, but Triumph assumes no liability for loss or damage due to delays or failure to meet any BUYER specified delivery date or quoted delivery date. Quoted price for any product does not expressly include shipping; the cost shall be paid directly by the BUYER. All shipping quotes by common carrier are estimated. Any charges in excess of those quoted will be charged to the BUYER and are the sole responsibility of the BUYER. **SELLER shall not be liable for delay or default in delivery resulting from any cause beyond SELLER'S reasonable control, including, but not limited to, governmental action, strikes or other labor troubles, fire, damage or destruction of goods, wars (declared or undeclared), acts of terrorism, manufacturers' shortages, availability or timeliness of transportation, materials, fuels, or supplies, and acts of God (each a "Force Majeure Event"). Upon the occurrence of a Force Majeure Event: (a) the time for SELLER'S performance shall be extended reasonably and the Parties shall adjust all affected dates accordingly; (b) the purchase price shall be adjusted for any increased costs to SELLER resulting from such Force Majeure Event; and (c) BUYER shall not be entitled to any other remedy.**

When goods are delivered to BUYER in SELLER'S own vehicles, the F.O.B. point shall be BUYER'S designated delivery site. In all other cases the F.O.B. point shall be SELLER'S yard/warehouse or manufacturer's yard/warehouse and all responsibility and costs of shipping and delivery beyond the applicable F.O.B. point shall be borne by BUYER. Title and risk of loss shall pass to BUYER at the applicable F.O.B. point, which for goods not delivered in Seller's own vehicles shall be when SELLER delivers the goods to the common carrier.

All claims for shortage of goods or for loss or damage to goods as to which SELLER has the risk of loss shall be waived unless BUYER, within five (5) calendar days after receipt of the short or damaged shipment, gives SELLER written notice fully describing the alleged shortage or damage. BUYER should have representative accepting products sign for goods and note on the Bill of Lading any shortages or damaged goods. Partial shipments are permitted at SELLER'S discretion with notice to BUYER.

Warranties – Triumph Geo-Synthetics, Inc. is a reseller of goods only, and does not provide any warranty. SELLER shall pass through to BUYER any transferable manufacturer's standard warranties with respect to goods purchased hereunder. BUYER and persons claiming through BUYER shall seek recourse exclusively from manufacturers in connection with any defects in or failures of goods, and this shall be the exclusive recourse of BUYER and persons claiming through buyer for defective goods, whether the claim of BUYER or the person claiming through buyer shall sound in contract, tort, strict liability, pursuant to statute, or for negligence. BUYER shall pass these terms to subsequent buyers and users of goods. SELLER excludes and disclaims all other express and implied warranties, including, but not limited to, all implied warranties of merchantability and fitness for a particular purpose. SELLER assumes no responsibility whatsoever for SELLER'S interpretation of plans or specifications provided by BUYER, and BUYER'S acceptance and use of goods supplied hereunder shall be premised on final approval by BUYER or by BUYER'S reliance on architects, engineers, or other third parties rather than on SELLER'S interpretation. to the extent not prohibited by applicable law, in no event, whether in contract, warranty, indemnity, tort (including, but not limited to, negligence), strict liability or otherwise, arising directly or indirectly out of the performance or breach of these terms, shall SELLER be liable for (a) any incidental, indirect, punitive, special, consequential or similar damages such as loss of use, lost profits, attorneys' fees or delay damages, even if such damages were foreseeable or caused by SELLER'S breach of this agreement, (b) any claim that properly is a claim against the manufacturer, or (c) any amount exceeding the amount paid to SELLER for goods furnished to BUYER which are the subject of such claim(s). All claims must be brought within one year of accrual of a cause of action.

Any change in product specifications, quantities, destinations, shipping schedules, or any other aspect of the scope of goods must be agreed to in writing by SELLER, and may result in a price and delivery adjustment by SELLER. No credit for goods returned by BUYER shall be given without SELLER'S written Return Material Authorization (RMA). All returns are subject to a restocking charge of 25% plus freight charges for both the delivery and the return.

Unless otherwise agreed in writing, payment terms are Net 30 from day of receipt of material. All orders are subject to SELLER'S continuing approval of BUYER'S credit. If BUYER'S credit is not approved or becomes unsatisfactory to SELLER then SELLER, in its sole discretion, may suspend or cancel performance, or require different payment terms, including but not limited to cash on delivery or in advance of shipment. In addition, SELLER may in its discretion require an advance deposit of up to 100% of SELLER'S selling price for any specially manufactured goods ordered by BUYER hereunder. Payments due hereunder shall be made in the form of cash, check, or money order, or other tender approved in writing by SELLER. SELLER may, in its sole discretion, apply BUYER'S payment against any open charges.

Past due accounts bear interest at the lesser of 1.5% per month or the maximum rate permitted by applicable law, continuing after SELLER obtains judgment against BUYER. SELLER may exercise setoff or recoupment to apply to or satisfy BUYER'S outstanding debt. BUYER shall have no right of setoff hereunder, the same being expressly waived hereby.

BUYER shall pay SELLER all costs and expenses of collection, suit, or other legal action brought as a result of the commercial relationship between them, including, but not limited to, all actual attorneys' and paralegals' fees, and collection costs, incurred pre-suit, through trial, on appeal, and in any administrative or bankruptcy proceedings. Any cause of action that SELLER has against BUYER may be assigned without BUYER'S consent to SELLER.

BUYER shall indemnify, defend, and hold SELLER its officers, directors, employees and agents harmless from any and all costs (including attorneys' and accountants' fees and expenses), liabilities and damages resulting from or related to any third party (including BUYER'S employees) claim, complaint and/or judgment arising from BUYER'S use of any goods furnished hereunder, as well as any negligent, intentional, or tortious act or omission of BUYER or any material breach by BUYER of these Terms.